

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA**

<b>MALIBU MEDIA, LLC</b>	:	Case No.: 1:12-cv-01117-WTL-DML
<b>Plaintiff,</b>	:	
<b>v.</b>	:	Judge Mark J. Dinsmore
<b>MICHAEL HARRIS</b>	:	
<b>and MICHAEL HARRISON,</b>	:	
<b>Defendants.</b>	:	

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**DEFENDANT MICHAEL HARRISON'S ANSWER TO PLAINTIFF'S THIRD  
AMENDED COMPLAINT**

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COMES NOW Defendant Michael Harrison (“Defendant”), by and through undersigned counsel, and for his Answer to Plaintiff Malibu Media, LLC’s Third Amended Complaint (“Complaint”), generally denies for lack of knowledge or information sufficient to form a belief about the truth of the allegations contained in Plaintiff’s Complaint, any and all allegations, whether alleged in whole or in part, that relate in any way whatsoever to the acts or omissions of any other individual Defendant, but as to the allegations against himself, Defendant states as follows:

**INTRODUCTION**

1. Defendant admits the part of the allegations contained in paragraph 1 of Plaintiff’s Complaint that the federal statute governing copyright infringement actions in United States District Courts is the Copyright Act and denies the rest of the allegations contained in paragraph 1 of Plaintiff’s Complaint.

2. Defendant denies the allegations contained in paragraph 2 of Plaintiff’s Complaint.

**JURISDICTION**

3. Defendant admits the part of the allegations contained in paragraph 3 of Plaintiff's Complaint that United States District Courts are conferred subject matter jurisdiction over matters presenting federal questions or matters arising under federal statutes and denies the rest of the allegations contained in paragraph 3 of Plaintiff's Complaint.

4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 4 of Plaintiff's Complaint.

5. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 5 of Plaintiff's Complaint.

**PARTIES**

6. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 6 of Plaintiff's Complaint.

7. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 7 of Plaintiff's Complaint.

8. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 8 of Plaintiff's Complaint.

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 9 of Plaintiff's Complaint.

10. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 10 of Plaintiff's Complaint.

11. Defendant admits the allegations contained in paragraph 11 of Plaintiff's Complaint.

12. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 12 of Plaintiff's Complaint.

13. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 13 of Plaintiff's Complaint.

14. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 14 of Plaintiff's Complaint.

### **JOINDER**

15. Defendant denies the allegations contained in paragraph 15 of Plaintiff's Complaint.

### **FACTUAL BACKGROUND**

16. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 16 of Plaintiff's Complaint.

17. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 17 of Plaintiff's Complaint.

18. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 18 of Plaintiff's Complaint.

19. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 19 of Plaintiff's Complaint.

20. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 20 of Plaintiff's Complaint.

21. Defendant admits the allegation contained in paragraph 21 of Plaintiff's Complaint.

22. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 22 of Plaintiff's Complaint.

23. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 23 of Plaintiff's Complaint.

24. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 24 of Plaintiff's Complaint.

25. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 25 of Plaintiff's Complaint.

26. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 26 of Plaintiff's Complaint.

27. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 27 of Plaintiff's Complaint.

28. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 28 of Plaintiff's Complaint.

29. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 29 of Plaintiff's Complaint.

30. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 30 of Plaintiff's Complaint.

31. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 31 of Plaintiff's Complaint.

32. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 32 of Plaintiff's Complaint.

33. Defendant denies the allegations contained in paragraph 33 of Plaintiff's Complaint.

34. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 34 of Plaintiff's Complaint.

35. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 35 of Plaintiff's Complaint.

36. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 36 of Plaintiff's Complaint.

37. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 37 of Plaintiff's Complaint.

38. Defendant denies the allegations contained in paragraph 38 of Plaintiff's Complaint.

39. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 39 of Plaintiff's Complaint.

40. Defendant denies the parts of the allegations contained in paragraph 40 of Plaintiff's Complaint that Defendant downloaded the full file of the copyrighted Work and became an "additional seed" and Defendant lacks knowledge or information sufficient to form a belief about the truth of the rest of the allegations contained in paragraph 40 of Plaintiff's Complaint.

41. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 41 of Plaintiff's Complaint.

42. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 42 of Plaintiff's Complaint.

43. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 43 of Plaintiff's Complaint.

44. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 44 of Plaintiff's Complaint.

45. Defendant denies the allegations contained in paragraph 45 of Plaintiff's Complaint.

46. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 46 of Plaintiff's Complaint.

47. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 47 of Plaintiff's Complaint.

#### **MISCELLANEOUS**

48. Defendant denies the allegations contained in paragraph 48 of Plaintiff's Complaint.

49. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 49 of Plaintiff's Complaint.

#### **COUNT I**

#### **Direct Infringement Against R. Stephen Hinds, Troy Lamb, Michael Harris, Robert Johnson, Michael Harrison, James Duncan, Howard McDonald, and John Doe 10**

50. Defendant incorporates the responses contained in paragraphs 1-49 as if fully restated herein in response to the allegations contained in paragraph 50 of Plaintiff's Complaint.

51. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 51 of Plaintiff's Complaint.

52. Defendant denies the allegations contained in paragraph 52 of Plaintiff's Complaint.

53. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 53 of Plaintiff's Complaint.

54. Defendant denies the allegations contained in paragraph 54 of Plaintiff's Complaint.

55. Defendant denies the allegations contained in paragraph 55 of Plaintiff's Complaint.

56. Defendant denies the allegations contained in paragraph 56 of Plaintiff's Complaint.

**COUNT II**

**Contributory Infringement Against R. Stephen Hinds, Troy Lamb, Michael Harris, Robert Johnson, Michael Harrison, James Duncan, Howard McDonald, and John Doe 10**

57. Defendant incorporates the responses contained in paragraphs 1-56 as if fully restated herein in response to the allegations contained in paragraph 57 of Plaintiff's Complaint.

58. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 58 of Plaintiff's Complaint.

59. Defendant denies the allegations contained in paragraph 59 of Plaintiff's Complaint.

60. Defendant denies the allegations contained in paragraph 60 of Plaintiff's Complaint.

61. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 61 of Plaintiff's Complaint.

62. Defendant denies the allegations contained in paragraph 62 of Plaintiff's Complaint.

63. Defendant denies the allegations contained in paragraph 63 of Plaintiff's Complaint.

64. Defendant denies the allegations contained in paragraph 64 of Plaintiff's Complaint.

65. Defendant denies the allegations contained in paragraph 65 of Plaintiff's Complaint.

66. Defendant denies the allegations contained in paragraph 66 of Plaintiff's Complaint.

### **AFFIRMATIVE DEFENSES**

In further answer to Plaintiff's Complaint, without undertaking or otherwise shifting any applicable burden of proof, or admitting any liability whatsoever, and reserving the right to supplement or amend this Answer, including by way of asserting additional defenses as warranted by facts revealed through investigation and discovery, Defendant asserts the following affirmative defenses:

#### **First Defense (Non-Infringement)**

Plaintiff is not entitled to relief against Defendant because Defendant did not directly or contributorily infringe the copyrighted Work.

#### **Second Defense (Failure to State a Claim)**

Plaintiff has failed to sufficiently allege facts for stating a claim upon which relief may be granted against Defendant pursuant to Fed. R. Civ. P. 12(b)(6).

#### **Third Defense (Failure to Join a Necessary Party)**

Plaintiff has failed to join a necessary party to the action under Fed. R. Civ. P. 19 pursuant to Fed. R. Civ. P. 12(b)(7).

**Fourth Defense (Improper Joinder)**

Plaintiff has improperly joinded Defendant in this action pursuant to Fed. R. Civ. P. 21.

**Fifth Defense (Assumption of Risk)**

Plaintiff assumed the risk that its copyrighted Work would be infringed upon.

**Sixth Defense (Contributory Negligence)**

Plaintiff was negligent or contributorily negligent in protecting its copyrighted Work from injury caused by tortious conduct.

**Seventh Defense (Failure to Mitigate Damages)**

Plaintiff failed to mitigate its damages.

**Eighth Defense (No Proximate Cause)**

Defendant did not proximately cause any injuries suffered by Plaintiff.

**Ninth Defense (Innocent Infringement / Lack of Willfulness / Lack of Volitional Act)**

Defendant's infringement was innocent and not willful, and Defendant was not aware and had no reason to believe that any of his acts constituted copyright infringement, and no volitional act of Defendant caused the alleged infringement.

**Tenth Defense (Waiver)**

Plaintiff's claims are barred, or recovery reduced, by the doctrine of waiver.

**Eleventh Defense (Estoppel)**

Plaintiff's claims are barred, or recovery reduced, by the doctrine of estoppel.

**Twelfth Defense (Laches)**

Plaintiff's claims are barred, or recovery reduced, by the doctrine of laches.

**Thirteenth Defense (Unclean Hands)**

Plaintiff's claims are barred, or recovery reduced, by the doctrine of unclean hands.

WHEREFORE, Defendant prays that this Court find judgment for Defendant and dismiss all of Plaintiff's claims against him with prejudice, deny Plaintiff's request for any relief whatsoever, order Plaintiff to pay Defendant the reasonable expenses, including attorney's fees, incurred in connection with defending this action, and for all relief just and proper in the premises.

**DEMAND FOR JURY TRIAL**

Defendant hereby demands trial by jury on all issues so triable raised by Plaintiff's Complaint.

Respectfully Submitted,

*/s/ Gabriel J. Quearry*  
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*Michael Harrison*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2013, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system and by Ordinary United States Mail to parties without access to the Court's system. Parties may access this filing through the Court's system.

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*/s/ Gabriel J. Quearry*  
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